Chapter 502: DIRECT WATERSHEDS OF WATERBODIES MOST AT RISK FROM NEW DEVELOPMENT, AND SENSITIVE OR THREATENED REGIONS OR WATERSHEDS

SUMMARY: This chapter lists the areas of the state in which the stormwater quality standards described in chapter 500 apply.

- 1. **Applicability.** This chapter applies to (A) a project that requires a stormwater permit pursuant to 38 M.R.S.A. § 420-D, and (B) a development that may substantially affect the environment and requires a site location of development (Site Law) permit pursuant to 38 M.R.S.A. §§ 481 490.
- **2. Definitions**. Unless the context otherwise indicates, definitions of terms in Chapter 500 apply to terms used in this chapter. See "Definitions", 06-096 CMR 500.2.
- **3. Criteria**. The criteria in this section are used to identify the direct watersheds of waterbodies most at risk from new development, and sensitive or threatened regions or watersheds.

The criteria apply for both projects requiring a stormwater permit and developments requiring a site location of development permit, unless otherwise specifically stated.

- **A. Direct watershed of waterbodies most at risk from new development**. The following types of resources are considered most at risk from new development.
 - (1) Lakes. A lake that is
 - (a) A public water supply; or
 - (b) Identified by the department as being in violation of class GPA water quality standards or as particularly sensitive to eutrophication based on
 - (i) Current water quality,
 - (ii) Potential for internal recycling of phosphorus,
 - (iii) Potential as a cold water fishery,
 - (iv) Volume and flushing rate, or
 - (v) Projected growth rate in the watershed.

Severely blooming lakes are a subset of lakes most at risk. A severely blooming lake has a history of algal blooms, and the reduction of existing watershed phosphorus sources sufficient to eliminate those algal blooms is expected to be so difficult that the addition of new, incompletely mitigated development sources may prevent successful restoration of the lake.

(2) Rivers, streams or brooks. That portion of a river, stream or brook serving as a public water supply, that is located at or above a public water supply intake, if the municipality (a) has a filtration waiver, or (b) uses slow sand filtration.

- (3) Coastal wetlands. A coastal wetland identified by the department to be either in violation of class SA, SB, or SC water quality standards for marine waters, or particularly sensitive to nutrient, toxic or pathogen contamination based upon one or more of the following factors.
 - (a) Current water quality, fish tissue, or sediment data including but not limited to the following.
 - (i) Pathogen concentrations in shellfish growing areas exceeding national shellfish sanitation standards subsequent to rain events of two inches or less in a 24-hour period.
 - (ii) Dissolved oxygen concentrations at or near levels that result in adverse impacts to the aquatic community.
 - (iii) Concentrations in fish tissue or sediments of toxics associated with runoff at levels that pose a significant risk to the ecosystem or public health, or significantly elevated over State or Federal background estimates.
 - (b) Potential as a marine fishery as determined by the Department of Marine Resources.
 - (c) Physical characteristics (hydrologic or geomorphic) that reduce tidal exchange or in some other way limit assimilative capacity or trap pollutants within the system such as the following.
 - (i) Low flushing rate.
 - (ii) Long narrow waterbodies.
 - (iii) Tide range or tidal volume.
 - (iv) Bar (ledge or sand) across main channel.
 - (v) Extensive salt marsh or tidal flats.
 - (d) Tidal volume compared to watershed size and runoff volume of direct watershed.
 - (e) Projected growth rate in the watershed.
- **B.** Sensitive or threatened regions or watersheds. The following types of resource areas are considered sensitive or threatened regions or watersheds. More types of resource areas are considered sensitive or threatened for purposes of a development requiring a site location of development permit, than for a project requiring only a stormwater permit, because a development requiring a site location of development permit may substantially affect the environment. See 38 M.R.S.A. § 482(2).
 - (1) Lake watersheds. The direct watershed of a lake that is not most at risk from new development.
 - (2) River, stream or brook watersheds

- (a) For purposes of a project requiring a stormwater permit, that portion of the watershed of a river, stream or brook (i) that is not within the watershed of a river, stream or brook most at risk from new development, (ii) that drains to a public water supply, and (iii) that is at the public water supply intake or drains to the river, stream or brook within 2 miles upstream from the intake.
- (b) For purposes of a development requiring a site location of development permit, the watershed of any river, stream or brook that is not a river, stream or brook most at risk from new development.
- (3) Wetland watersheds. For purposes of a development requiring a site location of development permit, the watershed of (a) a freshwater wetland that contains threatened or endangered species and is not within the watershed of a lake, river, stream or brook most at risk from new development; or (b) a coastal wetland not most at risk from new development.
- **4. List**. The following are waterbodies most at risk from development, and sensitive or threatened regions or watersheds.

The listed areas apply for both projects requiring a stormwater permit and developments requiring a site location of development permit, unless otherwise specifically stated.

- **A.** Direct watersheds of waterbodies most at risk from new development. The following are considered waterbodies most at risk from new development.
 - (1) Lakes. Lakes listed in Appendix A.
 - (2) Rivers, streams or brooks. Rivers, streams or brooks listed in Appendix B(1).
 - (3) Coastal wetlands. Coastal wetlands listed in Appendix C.
- **B. Sensitive or threatened regions or watersheds.** The following are considered sensitive or threatened regions or watersheds.
 - (1) Lake watersheds. Direct watersheds of lakes other than those listed in Appendix A.
 - (2) River, stream or brook watersheds
 - (a) For purposes of a project requiring a stormwater permit, those portions of the watersheds and channels of rivers, streams or brooks in townships listed in Appendix B(2), that are located at or within 2 miles up-stream of a public water supply intake.
 - (b) For purposes of a development requiring a site location of development permit, the watersheds of all rivers, streams and brooks not listed as most at risk from new development in Appendix B(1).
 - (3) Wetland watersheds. For purposes of a development requiring a site location of development permit, the watersheds of (a) freshwater wetlands containing endangered or threatened species and not within the watershed of a lake, river, stream or brook most at risk from new development, and (b) coastal wetlands not listed as most at risk from new development in Appendix C.

5. Further rulemaking. By July 1, 1998, the commissioner shall present amendments updating this chapter to the board for posting to public hearing. These amendments must, at a minimum, include an updated list of rivers, streams and brooks.

AUTHORITY: 38 M.R.S.A. §§ 341-D, 420-D, and 484

EFFECTIVE DATE: December 31, 1997

APPENDIX A

Lakes Most at Risk from Development

(x) =Severely Blooming

LAKE TOWN

ADAMS POND BOOTHBAY ADAMS POND NEWFIELD ADAMS POND BRIDGTON ALLEN POND **GREENE** ANASAGUNTICOOK LAKE CANTON ANDERSON POND AUGUSTA ANNABESSACOOK LAKE (X) WINTHROP BARTLETT POND WATERBORO BAUNEG BEG POND SANFORD BAY OF NAPLES **NAPLES** BEAVER POND BRIDGTON BERRY POND WINTHROP BERRY POND GREENE BIRCH HARBOR POND WINTER HARBOR BLACK POND **SWEDEN** BONNY EAGLE LAKE BUXTON **BOULTER POND** YORK BOYD POND LIMINGTON **BRANCH LAKE ELLSWORTH BRANCH POND** CHINA **BRETTUNS POND** LIVERMORE **BUKER POND** LITCHFIELD **BUNGANUT POND** LYMAN **BURNTLAND POND** STONINGTON CARLTON POND WINTHROP CHAFFIN POND WINDHAM CHASES POND YORK CHICKAWAUKIE POND ROCKPORT CHINA LAKE **CHINA** CITY POND SANDY RIVER **PLANTATION** COBBOSSECONTEE LAKE (X) WINTHROP COCHNEWAGON LAKE MONMOUTH COFFEE POND **CASCO** COLD RAIN POND **NAPLES** CRAWFORD POND WARREN CRESCENT POND RAYMOND CRYSTAL LAKE GRAY CRYSTAL POND TURNER DAM POND AUGUSTA DAMARISCOTTA LAKE, **NOBLEBORO** MIDDLE AND SOUTH BASINS DAVIS POND HOLDEN DEER POND **HOLLIS** DEERING POND SANFORD DESERT POND MOUNT VERNON DEXTER POND WINTHROP DODGE POND RANGELEY DUCKPUDDLE POND WALDOBORO DUMPLING POND CASCO

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	PENNESSEEWASSEE	NORWAY	WHITNEY POND	OXFORD
PLEASANT POND TURNER WILEY POND BOOTHBAY	PETINGILL POND	WINDHAM	WHITTIER POND	ROME
	PLEASANT POND	TURNER	WILEY POND	BOOTHBAY

06-096 DEPARTMENT OF ENVIRONMENTAL PROTECTION

WILSON POND	WAYNE
WOOD POND	BRIDGTON
WOODBURY POND	MONMOUTH
WORTHLEY POND	POLAND
YORK POND	ELIOT
YOUNGS LAKE	WESTFIELD

APPENDIX B

(1) Rivers, Streams or Brooks Most at Risk from Development

Waterbody Municipality or Area Served by Public Water Supply

Chapman Brook Bethel
Petite Brook St. Francis

(2) Sensitive or threatened regions or watersheds

Stoney Brook Andover Salmons Falls River Berwick

Saco River Biddeford-Saco Area

Aroostook River Caribou
Aunt Hanna Brook Dixfield
Pattee Brook Fort Fairfield

Branch Brook Kennebunk, Kennebunkport, Wells

Silver Spring Brook Limestone
Limestone Stream Limestone

Little Madawaska River U.S. Air Force -- Loring

Sebec RiverMiloSt. John RiverMadawaskaPresque Isle StreamPresqueKennebec RiverSkowheganQuarry Hill BrookWaldoboro

APPENDIX C

Coastal Wetlands Most at Risk from New Development

Small Estuaries, Tidal Rivers, and Bays

Spruce Creek (All)

Sections of Kittery and Eliot which are within the watershed of the tidal and freshwater segments of Spruce Creek inland of the Rte. 103 bridge between Kittery and Kittery Point.

Ogunquit River (All)

The sections of Ogunquit, Wells, York, and South Berwick which are encompassed within the watershed of the tidal and freshwater segments of the Ogunquit River and its tributaries inland from the mouth of the Ogunquit Estuary.

Scarboro Estuary System (All)

The sections of Scarborough, Old Orchard Beach, South Portland, Gorham, and Saco that are within the watershed of the tidal and freshwater segments of the Scarboro River inland from its junction with Saco Bay at Pine Point plus all its tributaries including, but not limited to, the Nonesuch River, the Libby River, and Jones Creek.

New Meadows River (Excluding waters west of Gurnet Strait and Rte. 24)

The sections of Phippsburg, Harpswell, West Bath, Bath and Brunswick within the watershed of the tidal and freshwater segments of the New Meadows River inland from its junction with Casco Bay at Fort Point plus all its tributaries, but excluding the tidal waters that lie west of the Rte. 24 Bridge at Gurnet Strait.

Medomak River (Segment)

The section of Waldoboro that is within the watershed of the tidal and freshwater segments of the Medomak River and its tributaries, inland of a line between the northern end of Jones Neck and Havener Point and south of Winslows Mills.

St. George River (Segment)

The sections of Cushing, St. George, South Thomaston, Thomaston, Rockland, and Warren, that are within the watershed of the tidal and freshwater segments of the St. George River inland of a line connecting Bailey Point in Cushing to Watts Point in St. George and downstream of the outlets of south pond, White Oak Pond, and Chickawaukie Lake plus all the St. George River's tributaries within this area including, but not limited to, the Oyster River and Mill Creek.

Weskeag River (All)

The sections of South Thomaston, Owls Head, Thomaston, and Rockland that are within the watershed of the tidal and freshwater segments of the Weskeag River inland from its confluence with Penobscot Bay at Spaulding Island plus all the Weskeag's tributaries.